

CANADA

PROVINCE OF QUÉBEC

DISTRICT OF MONTREAL

NO.: 500-11-045642-135

SUPERIOR COURT
(Commercial Division)

IN THE MATTER OF THE RECEIVERSHIP OF:

AVEOS FLEET PERFORMANCE INC. / AVEOS PERFORMANCE AÉRONAUTIQUE INC., a legal person duly incorporated, having its head office at 1 Place Ville Marie, Suite 3900, Montreal Quebec, H3B 4M7

Debtor

and

CRÉDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as **Fondé de Pouvoir**, a legal person having a place of business at One Madison Avenue, New York, New York, 10010, U.S.A.,

Petitioner

and

MNP LTD., a legal person having a place of business at 1155 West René-Lévesque boulevard, Suite 1900, Montreal, Quebec, H3B 2J8

Proposed Receiver

MOTION FOR THE ISSUANCE OF AN ORDER APPOINTING A RECEIVER
(s. 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, as amended)

TO THE HONOURABLE MARK SCHRAGER, J.S.C., OF THE SUPERIOR COURT, SITTING IN COMMERCIAL DIVISION IN AND FOR THE JUDICIAL DISTRICT OF MONTREAL, PETITIONER CRÉDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as Fondé de Pouvoir, RESPECTFULLY SUBMITS AS FOLLOWS:

I. INTRODUCTION

1. By the present *Motion for the Appointment of a Receiver* (the "**Motion**"), the Petitioner seeks, *inter alia*, an order from this Court appointing MNP Ltd., through its

representative, Sheri Aberback, Trustee, CIRP, as receiver over the remaining assets and Property of Aveos Fleet Performance Inc. (the "**Debtor**"), the whole pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* ("**BIA**") and in accordance with the conclusions of the present Motion.

2. More specifically, the Petitioner seeks the issuance of an order substantially in the form of the draft Receivership Order communicated herewith as **Exhibit R-1**.
3. The Debtor does not oppose the appointment of the proposed Receiver.
4. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the *Petition for the Issuance of an Initial Order* filed on March 19, 2012 (the "**Initial CCAA Petition**"), or in the Initial Order issued in the CCAA Proceedings.

The CCAA Proceedings and the Parties

5. On March 19, 2012, the Honourable Mark Schragger, j.s.c. issued an order (as subsequently amended and restated, the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (as amended, the "**CCAA**") in respect of Aveos Fleet Performance Inc./Aveos Performance Aéronautique Inc. and Aero Technical US, Inc., (collectively, the "**CCAA Petitioners**"), the whole as appears from the Court record in the Superior Court matter bearing docket number 500-11-042345-120 (the "**CCAA Proceedings**").
6. Pursuant to the Initial Order, FTI Consulting Canada Inc. was appointed as Monitor of the CCAA Petitioners (the "**Monitor**") and a stay of proceedings was ordered until April 5, 2012 and subsequently extended by further orders until November 22, 2013 (the "**Stay Period**").
7. On March 20, 2012, the Honourable Mark Schragger, j.s.c. issued an order appointing Mr. Jonathan Solursh as Chief Restructuring Officer of the CCAA Petitioners (collectively, with R.e.I. group inc. ("**R.e.I.**"), the "**CRO**") with the requisite authority to carry on, manage, operate and supervise the management and operations of the business and affairs of the CCAA Petitioners, as appears from the Court record.
8. Petitioner Credit Suisse AG, Cayman Islands Branch ("**Credit Suisse**" or the "**Petitioner**"), acts in its capacity as Fondé de Pouvoir and administrative agent and collateral agent on behalf of the secured lenders (the "**Second Lien Lenders**") under a senior secured term loan agreement dated as of March 12, 2010 (as amended, restated, supplemented or modified from time to time, the "**Second Lien Credit Agreement**") and, in such capacity, holds security over all of the assets of Aveos in each of the jurisdictions in which such assets were or are situated, and is therefore a secured creditor of the Debtor.
9. The list of contractual documents pertaining to the charges and hypothecs affecting the Debtor's Property in favour of the Petitioner, as well as information pertaining to the registration of same is set forth at "**Annexe A**" to the present Motion. A copy of the certified statements of registration at the Register of Personal and Movable Real Rights, along with a movable security search report is communicated en liasse as **Exhibit R-2**.

10. The Monitor in the CCAA Proceedings has reviewed the security in favour of the Petitioner, and has reported in its Sixteenth Report that it received an opinion confirming that such security is valid and enforceable. A copy of the Sixteenth Report is communicated en liasse as **Exhibit R-3**.
11. As of the filing of the Initial CCAA Petition, the Debtor was also indebted to certain senior secured lenders (the "**First Lien Lenders**") under a senior secured credit agreement dated as of March 12, 2010 among, *inter alia*, the Debtor, as borrower, certain other parties to said credit agreement, the financial institutions party thereto, as lenders, Credit Suisse, as administrative agent, Wells Fargo Bank National Association, as collateral agent, Corevision Strategies LLC, as collateral monitoring agent, and other credit parties thereto.
12. As reported by the CRO in his Twelfth Report to the Court dated August 6, 2013, the First Lien Lenders have been paid in full in respect of the Debtor's indebtedness towards them, as a result of recovery by the First Lien Lenders under a guarantee of that indebtedness. As a result of such recovery, the guarantor is subrogated to the rights of the First Lien Lenders. However, the guarantor is contractually subordinated to the Second Lien Lenders. A copy of the Twelfth Report is communicated en liasse as **Exhibit R-4**.
13. Aveos is indebted to the Second Lien Lenders in the approximate amount of \$45 million as of November 15, 2013 under the Second Lien Credit Agreement, together with interest and costs that continue to accrue.
14. A statement of account setting out the Debtor's indebtedness to the Second Lien Lenders is outlined in the statement communicated as **Exhibit R-5**.

II. **GROUND FOR THE ORDERS SOUGHT**

15. The Debtor had ceased its day-to-day operations concurrently with the institution of the CCAA Proceedings.
 - a) *The Assets and Indebtedness of the Debtor*
16. As set forth in the CCAA Petitioners' *Motion for Termination of the CCAA Proceedings and for the Issuance of Other Orders* dated November 18, 2013, communicated as **Exhibit R-6** (the "**Transition Motion**"), substantially all of the CCAA Petitioners' assets were sold as contemplated in the Divestiture Process put forth by the CRO in the CCAA Proceedings.
17. With the exception of certain accounts receivable and other amounts the Debtor considers are owed to it by the Canada Revenue Agency in respect of GST input tax credits, substantially all of the CCAA Petitioners' assets in existence at the time of the Initial Order have been divested or realized.
18. The residual assets of the CCAA Petitioners are minimal (relative to their liabilities and the significant value of the assets once owned).
19. As already appears from the Court record in the CCAA Proceedings, namely from the Twelfth Report to the Court of the CRO, and as detailed in the Transition Motion, the

amount owed to the Second Lien Lenders is substantially in excess of the amounts available for distribution from the Debtor's remaining Property.

20. The expected proceeds from the disposition of the remaining Property of the Debtor will not be sufficient to pay all of secured charges against the Aveos Property in full and, in particular, the secured amounts due to the Second Lien Lenders herein.
21. It is clear that there will be no funds available for the unsecured creditors of the Debtor. The Second Lien Lenders are the primary secured creditors with an interest in the collateral of the Debtor.

b) The CCAA Proceedings are No Longer Necessary

22. The Petitioner is informed that the CCAA Petitioners, under the direction of the CRO and in consultation with the Monitor, have determined that there will be no plan of arrangement or compromise made to the creditors of the CCAA Petitioners.
23. Accordingly, in the circumstances, the CCAA Petitioners have concluded that a termination of the CCAA Proceedings and a concurrent transition into a bankruptcy by the Debtor in parallel with the present receivership proceedings instituted by the Petitioner would constitute the most efficient, cost effective means to administer the relatively few remaining assets of the Debtor, to wind-up its affairs and to facilitate an orderly liquidation and distribution of the proceeds of its remaining Property. The Petitioner is advised that the Debtor intends to assign itself into bankruptcy concurrently with the termination of the CCAA Proceedings.
24. Indeed, given the current circumstances, continuing the CCAA Proceedings fulfills no further purpose and would entail incurring substantial additional expenses that are unnecessary. There is no continued need for the infrastructure of the CCAA Proceedings, nor is there any ongoing interest of the Debtor in remaining in possession of its assets. There are no remaining employees of the Debtor. The Property largely consists of cash and receivables. The appointment of a receiver over the remaining Property of the Debtor to complete the liquidation and distribution of proceeds will minimize further deterioration of the Second Lien Lenders' collateral position.

c) Status of Employee Claims Process

25. The Petitioner is informed that the Employee Claims Process that was undertaken by the CCAA Petitioners under the supervision of the Monitor pursuant to the Order issued by this Honourable Court on June 26, 2013 has been substantially completed, as appears namely from the Twenty-Fifth Report to the Court filed by the Monitor in the context of the CCAA Proceedings (communicated as **Exhibit R-7**).
26. As previously reported to the Court, the primary purpose of the Employee Claims Process was to determine the amount of employee claims in the context of the future application of the Wage Earner Protection Program Act, S.C. 2005, c. 47 ("**WEPPA**") in anticipation of its application being triggered by a bankruptcy or receivership of the Debtor.

d) Transition

27. It is submitted that, at this point in time, the realization and administration of these assets can be more appropriately undertaken in a receivership proceeding and in the bankruptcy proceedings of the Debtor.
28. The Petitioner will have served, subject to the issuance of the Order sought herein, a Notice of Intention to Enforce Security over the Debtor's Property pursuant to s. 244 of the BIA (the "**244 Notice**"), the whole as appears from a copy of said Notice of Intention, **Exhibit R-8**.
29. The Debtor has consented to the delivery of the 244 Notice, and has consented to waive the prescribed 10-day period, subject to the issuance of the Order sought herein authorizing its delivery. It is submitted that, in the circumstances, it is appropriate and warranted to appoint a receiver prior to the expiry of the prescribed 10-day period.

e) Reserves

30. On April 26, 2013, the Office of the Superintendent of Financial Institutions ("**OSFI**") applied to this Court in the CCAA Proceedings for the issuance of a Declaratory Judgment (the "**OSFI Motion**") in respect of the legal qualification of and treatment to be conferred to a portion of the Debtor's Property, namely the sum of \$2,804,450.00 (the "**Disputed Funds**"), representing outstanding special payments owed by the Debtor pursuant to a defined benefit pension plan for non-unionized former employees. Each of the Petitioner and OSFI claim rights to a prior ranking claim over the Disputed Funds.
31. A hearing on the OSFI Motion was held on October 21 and 22, 2013, and the matter is currently under advisement by this Honourable Court.
32. Considering the pending litigation between the Petitioner and OSFI over the Disputed Funds, it is appropriate for the Receiver to reserve from distribution an amount equal to the value of the Disputed Funds, namely the sum of \$2,804,450.00, until such time as a final and executory judgement is rendered on the OSFI Motion.

f) Appointment of MNP Ltd

33. The Petitioner requests that this Court appoint MNP Ltd. ("**MNP**"), under the responsibility of Sheri Aberback, a licensed trustee with an office in the Province of Quebec, as receiver pursuant to s. 243(1) of the BIA (the "**Receiver**"), to administer the remaining realizable Property of the Debtor and to facilitate an orderly liquidation and distribution thereof. MNP has consented to its appointment as Receiver.
34. The Petitioner requests that the Receiver be granted the usual powers to administer, conserve and distribute the Debtor's Property and the proceeds thereof, subject to the terms of the Order to be granted in accordance with the conclusions of this Motion.
35. The Petitioner is informed that MNP Ltd. (also under the direction of Sheri Aberback) has also been designated by the Debtor to act as trustee pursuant to the proposed assignment in bankruptcy to be made by the Debtor if authorized pursuant to the Order sought in the Transition Motion.
36. The Petitioner is informed that MNP Ltd. is familiar with relevant facets of the CCAA Proceedings and the Debtor's financial situation. It is qualified to act as bankruptcy

trustee and as Receiver, and has consented to perform the duties required as such in the event that bankruptcy proceedings are authorized and a receivership order is issued. It is anticipated that these duties will include taking the necessary steps to facilitate employees' WEPPA claims, working in cooperation with Human Resources and Skills Development Canada as contemplated by the Employee Claims Process Order issued by this Honourable Court in the CCAA Proceedings.

37. In the event that the proposed receivership order requested herein is granted, it is contemplated that the Receiver will retain R.e.I. as agent to assist with the administration of the remaining Property.
38. This engagement, to the extent approved by the Court, will be made with the consent and approval of the Petitioner and is intended to facilitate a smooth transition and eliminate any duplication of effort and costs.
39. The continued retainer of R.e.I. will promote efficiency, and will allow MNP to leverage the extensive work already accomplished. It will allow for cost savings by avoiding the need for duplication of work by the proposed Receiver.

g) Proposed Distribution

40. The Petitioner has been advised that, upon the release and discharge of the various CCAA Charges upon the conclusion of the CCAA Proceedings, there are surplus funds available for distribution by the Debtor to the Petitioner on behalf of the Second Lien Lenders, subject to the retention of a reserve to be maintained by the Receiver as discussed above. The Petitioner therefore anticipates that, under the auspices of the Receiver to be appointed, a further reimbursement of a portion of its indebtedness towards the Petitioner, namely the repayment of the sum of approximately U.S. \$6,500,000 can be effected following the Receiver's appointment.

h) Conclusion

41. The Monitor supports the present Motion, including the proposed assignment in bankruptcy of the Debtor.
42. It is submitted that it is in the interests of the Petitioner and all stakeholders and in the interests of justice that this Motion be granted prior to the expiration of the present Stay Period, considering that a further extension thereof would compel the Petitioner to incur additional costs and delays which are unwarranted in the circumstances.
43. The Petitioner respectfully submits that it is in the interests of justice that an Order be issued by this Court substantially as proposed by the Petitioner in the conclusions hereof.

WHEREFORE, THE PETITIONER PRAYS, BY JUDGEMENT TO INTERVENE HEREIN, THIS HONOURABLE COURT TO:

- [1] GRANT** the present motion for the Issuance of an Order appointing a Receiver (the "Motion");

- [2] **ISSUE** an order substantially in the form of the draft order communicated as Exhibit R-1 in support of the Motion;
- [3] **ORDER** the provisional execution of the Order notwithstanding appeal;
- [4] **THE WHOLE** without costs, save in case of contestation.

Montréal, November 18, 2013


BLAKE, CASSELS & GRAYDON LLP
Attorneys for the Petitioner

ANNEXE A

(List of hypothecs and charges affecting the Debtor's Property in favour of the Second Lien Lenders)

- a) A Senior Secured Term Loan Agreement among Aveos, Aveos Holding Company, Aero Technical Support & Services Holdings and Credit Suisse AG, Cayman Island Branch ("**Credit Suisse**") as administrative agent and collateral agent on behalf of the secured lenders from time to time parties thereto (the "**Second Lien Lenders**") dated as of March 12, 2010 (as amended, restated, supplemented or modified from time to time (the "**Second Lien Credit Agreement**");
- b) A deed of hypothec and issue of bonds (junior) in the amount of Cdn\$150,000,000 with interest at 25% per annum, entered into on March 10, 2010 before Mtre. Keri Clair-Bookalam, Notary, under number 325 of her minutes, by Aveos in favour of Lehman, acting as *fondé de pouvoir* under Article 2692 of the Civil Code for the holders of the bonds issued thereunder, and registered at the RPMRR on March 11, 2010 under number 10-0140353-0001 and at the Land Registry on March 11, 2010 under number 16 993 628, communicated as **Exhibit R-9** (the "**Initial Second Lien Hypothec**");
- c) A deed of assignment and substitution of *fondé de pouvoir* entered into on February 15, 2012 before Mtre. Stéphanie Martel, Notary, under number 408 of her minutes, by Lehman (as retiring agent and *fondé de pouvoir* under the Initial Second Lien Hypothec), Credit Suisse (as successor agent and *fondé de pouvoir*) and Aveos, and registered at the RPMRR on February 16, 2012 under number 12-0109068-0001 and at the Land Registry on February 16, 2012 under number 18 839 586 (as corrected pursuant to the Second Lien Deed of Correction (as defined below), (the "**Second Lien Deed of Assignment**"; the Initial Second Lien Hypothec, as assigned and supplemented pursuant to the Second Lien Deed of Assignment is hereafter referred to as the "**Second Lien Hypothec**");
- d) A deed of correction entered into on February 27, 2012 before Mtre. Stéphanie Martel, Notary, under number 413 of her minutes, by Lehman (as retiring agent and *fondé de pouvoir* under the Initial Second Lien Hypothec), Credit Suisse (as successor agent and *fondé de pouvoir*) and Aveos and registered at the Land Registry on February 28, 2012 under number 18 864 373 (the "**Second Lien Deed of Correction**");
- e) A 25% demand bond (junior) in the principal amount of Cdn\$150,000,000 dated as of March 12, 2010, represented by certificate No. 01, issued under the Initial Second Lien Hypothec by Aveos to the order of Lehman, in its capacity as collateral agent under the Second Lien Credit Agreement (in such capacity, the "**Initial Second Lien Collateral Agent**") (the "**Initial Second Lien Bond**");
- f) A 25% demand bond (junior) in the principal amount of Cdn\$150,000,000 dated as of the February 15, 2012, represented by certificate No. 02, issued under the Second Lien Hypothec by Aveos to the order of Credit Suisse, in its capacity as collateral agent under the Second Lien Credit Agreement (in such capacity, the "**Successor Second Lien Collateral Agent**") in substitution and replacement of the Initial Second Lien Bond (the "**Second Lien Bond**");
- g) A pledge of bond agreement (junior) dated as of March 12, 2010 granted by Aveos in favour of Lehman, acting as the Initial Second Lien Collateral Agent and as agent, mandatary and

custodian for the other Creditors (as such term is defined therein), hypothecating the Initial Second Lien Bond (the “**Initial Second Lien Pledge**”);

- h) A pledge of bond agreement (junior) dated as of February 15, 2012 granted by Aveos in favour of Credit Suisse, acting as the Successor Second Lien Collateral Agent and as agent, mandatary and custodian for the other Creditors (as such term is defined therein), hypothecating the Second Lien Bond (the “**Second Lien Pledge**”);
- i) A delivery order (junior) dated as of March 12, 2010, 2010 addressed to Lehman, acting as *fondé de pouvoir* as contemplated in Article 2692 of the Civil Code, in respect of the Initial Second Lien Bond;
- j) A delivery order (junior) dated as of February 15, 2012 addressed to Credit Suisse, acting as *fondé de pouvoir* as contemplated in Article 2692 of the Civil Code, in respect of the Second Lien Bond;
- k) A bondholder’s agreement dated as of February 15, 2012 executed by Credit Suisse, as sole bondholder under the Second Lien Hypothec, addressed to Credit Suisse (in its capacity as *fondé de pouvoir* under the Second Lien Hypothec) and Aveos;
- l) A Term Loan general security agreement dated March 12, 2010 (as assigned and amended pursuant to the Second Lien 2011 Amendment dated as of February 17, 2011, the “**Second Lien GSA**,” communicated as **Exhibit R-10**; the First Lien GSA and the Second Lien GSA are hereinafter collectively referred to as the “**GSAs**”) granted by the Loan Parties in favour of the Successor Second Lien Collateral Agent (as successor by assignment to the Initial Second Lien Collateral Agent) and registered as follows:
 - (i) under the Ontario PPSA against (i) Aveos on March 1, 2010 under reference file number 659509182 (registration number 20100301 1022 1590 8765), as amended on March 3, 2010 (registration number 20100303 1530 1590 8995) and on March 5, 2010 (registration number 20100305 1512 1590 9128) and as assigned on January 6, 2012 (registration number 20120106 1730 1862 8298), (ii) 3218091 on March 1, 2010 under reference file number 659509245 (registration number 20100301 1025 1590 8767), as amended on March 3, 2010 (registration number 20100303 1633 1590 9012) and on March 5, 2010 (registration number 20100305 1513 1590 9130) and as assigned on January 6, 2012 (registration number 20120106 1730 1862 8301), and (iii) Aero Technical Holdings on March 1, 2010 under reference file number 659509236 (registration number 20100301 1024 1590 8766), as amended on March 3, 2010 (registration number 20100303 1531 1590 8996) and on March 5, 2010 (registration number 20100305 1513 1590 9129) and as assigned on January 6, 2012 (registration number 20120106 1730 1862 8300);
 - (ii) under the Alberta PPSA against Aveos on March 1, 2010 under registration number 10030108727, as amended on March 3, 2010 under registration number 10030327448 and as assigned on January 6, 2012 under registration number 12010632113;
 - (iii) under the BC PPSA against the Company on March 1, 2010 under registration number 430946F, as amended on March 5, 2010 under

registration number 440623F and as assigned on January 6, 2012 under registration number 430946F;

- (iv) under the NS PPSA against Aero Technical Holdings and 3218091 on March 1, 2010 under registration number 16325391, as amended on March 1, 2010 under registration number 16325441 and as amended on March 3, 2010 under registration number 16339962 and as assigned on January 6, 2012 under registration number 19030469;
- (v) under the Manitoba PPSA against the Company on March 1, 2010 under registration number 201002992200, as amended on March 3, 2010 under registration number 201003182610 and as assigned on January 6, 2012 under registration number 201200425214; and
- (vi) Under the NWT PPSA against the Company on August 30, 2011 under registration number 892851, as assigned on January 1, 2012 under registration number 922690.

AFFIDAVIT

I, the undersigned, Megan Kane, Authorized Signatory of Credit Suisse AG, Cayman Island Branch, the Petitioner in the present matter, domiciled for the purposes hereof at One Madison Avenue, in the City of New York, State of New York, 10010, United States of America, do solemnly declare:

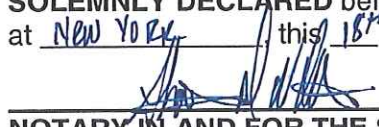
1. I am an Authorized Signatory of Credit Suisse AG, Cayman Island Branch in the present matter;
2. All of the facts alleged in the Motion for the Appointment of a Receiver are true and correct.

AND I HAVE SIGNED:



MEGAN KANE
Megan Kane
Authorized Signatory

SOLEMNLY DECLARED before me
at NEW YORK this 18th day of November, 2013



NOTARY IN AND FOR THE STATE OF NEW YORK

SHARON D. WILLIAMS
Notary Public, State of New York
No. 01WI6203907
Qualified in New York County
Commission Expires April 13, 2017

NOTICE OF PRESENTATION

TO: AVEOS FLEET PERFORMANCE INC.
1, Place Ville-Marie, Suite 3900
Montréal (Québec)

AND : MNP LTD.
1155, West René-Lévesque Blvd.
Suite 1900
Montréal (Québec)

AND : SERVICE LIST

TAKE NOTICE that the *Motion for the Appointment of a Receiver* will be presented before the Honourable Mark Schragger of the Superior Court of Quebec, sitting in and for the Commercial Division, in **Room 16.12 of the Montreal Courthouse**, situated at 1 Notre-Dame Street East, Montreal, on **November 22, 2013 at 9:15 a.m.**, or so soon thereafter as counsel may be heard.

DO GOVERN YOURSELVES ACCORDINGLY.

Montréal, November 18, 2013


BLAKE, CASSELS & GRAYDON LLP
Attorneys for the Petitioner

No.: 500-11-045642-135

SUPERIOR COURT
(Commercial Division)
DISTRICT OF MONTRÉAL

IN THE MATTER OF THE RECEIVERSHIP OF:

AVEOS FLEET PERFORMANCE INC./AVEOS
PERFORMANCE AÉRONAUTIQUE

-and- Debtor

CRÉDIT SUISSE AG, CAYMAN ISLANDS BRANCH

-and- Petitioner

MNP LTD.

Proposed Receiver

MOTION FOR THE ISSUANCE OF AN ORDER
APPOINTING A RECEIVER
(S. 243 (1) B.I.A.)

ORIGINAL

M^r Sébastien Guy **BB-8098**
BLAKE, CASSELS & GRAYDON LLP
Barristers & Solicitors
600 de Maisonneuve Blvd. West,
Suite 2200
Montréal, Québec H3A 3J2
Telephone: 514.982.4000
Facsimile: 514.982.4099
E-mail: montreal@blakes.com



Our file: 79421-2